

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
MAE S. WEDRICK, )  
 )  
Appellant, )  
 )  
v. )  
 )  
STATE OF WASHINGTON, )  
DEPARTMENT OF ECOLOGY, )  
and LAWRENCE M. WEDRICK, )  
 )  
Respondents. )

PCHB No. 823

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

THIS MATTER, the appeal of a ground water permit issued to Lawrence M. Wedrick having come on regularly for formal hearing before Board members Chris Smith and Walt Woodward on the 8th day of September, 1975, in Yakima, Washington and appellant Mae S. Wedrick appearing through her attorney, A. J. Losee and respondent Washington State Department of Ecology appearing through its attorney, Joseph J. McGoran, Assistant Attorney General and respondent Lawrence M. Wedrick appearing through his attorney, John T. Day with David Akana, hearing examiner presiding and the Board having considered the sworn testimony, the exhibits,

1 and arguments of counsel, records and files herein and having entered  
2 on the 30th day of September, 1975, its proposed Findings of Fact,  
3 Conclusions of Law and Order, and the Board having served said proposed  
4 Findings, Conclusions and Order upon all parties herein by certified mail,  
5 return receipt requested and twenty days having elapsed from said  
6 service; and

7 The Board having received no exceptions to said proposed Findings,  
8 Conclusions and Order and the Board being fully advised in the premises,  
9 now therefore,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
11 Findings of Fact, Conclusions of Law and Order dated the 30th day of  
12 September, 1975, and incorporated by this reference herein and attached  
13 hereto as Exhibit A, are adopted and hereby entered as the Board's  
14 Final Findings of Fact, Conclusions of Law and Order herein.

15 DONE at Lacey, Washington, this 30th day of October, 1975.

16 POLLUTION CONTROL HEARINGS BOARD

17 Chris Smith  
18 CHRIS SMITH, Chairman

19 Walt Woodward  
20 WALT WOODWARD, Member

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27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

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Mr. Lawrence M. Wedrick  
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White Salmon, Washington 98672

Mr. Lloyd Taylor  
Department of Ecology  
St. Martin's College  
Olympia, Washington 98504

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IN THE MATTER OF  
MAE S. WEDRICK,

Appellant,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY  
and LAWRENCE M. WEDRICK,

Respondents.

PCHB No. 823

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a ground water permit issued by the Department of Ecology (hereinafter "Department") to Lawrence M. Wedrick, came in a formal hearing before the Pollution Control Hearings Board, Chris Smith, Chairman, and Walt Woodward on September 8, 1975, in Yakima. Hearing examiner David Akana presided.

Appellant appeared by and through her attorney, A. J. Losee; respondent Department of Ecology appeared through Joseph J. McGoran, assistant attorney general; respondent Lawrence M. Wedrick (hereinafter "permittee") appeared by and through his attorney, John T. Day.

EXHIBIT A

1 Olive Blankenbaker, Yakima court reporter, recorded the proceedings.

2 Witnesses were sworn and testified. Exhibits were admitted.

3 Counsel made arguments.

4 From the testimony heard, exhibits examined, and contentions  
5 considered, the Pollution Control Hearings Board makes these

6 FINDINGS OF FACT

7 I.

8 Appellant is the owner of land located near White Salmon in  
9 Klickitat County. On this property, appellant holds a Certificate  
10 of Ground Water Right, No. 4117-A, which allows her to withdraw a  
11 maximum rate of 30 gallons per minute (gpm) and a total withdrawal  
12 of 9.6 acre-feet per year for the irrigation of two acres and for  
3 domestic supply.

14 II.

15 Respondent permittee is the grantee of certain lands formerly  
16 owned by appellant. On certain lands reserved in the grant, appellant  
17 has kept such water rights she had perfected except for what appears  
18 to be permittee's limited right to use appellant's established  
19 water claim. On these same lands, the permittee has constructed  
20 another well.

21 III.

22 On August 22, 1973 the permittee applied for a ground water  
23 permit to appropriate two acre-feet of water at a rate of eight gpm  
24 for continuous domestic use from his existing well. Respondent  
25 Department authorized the issuance of the permit. Appellant,  
26 protestant during the time preliminary to the Department's action,

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 appealed the Department's final decision to this Board.

2 IV.

3 The Department's Report on Examination contained the following  
4 statements upon which appellant heavily relies:

5 By reference to Mrs. Mae S. Wedrick's certificate  
6 of water right #4117, the water well report shows  
7 the drain-down as being total, virtually drying up  
8 the well, at a pumping rate of 3 gallons per minute  
9 for two hours. The approximate distance between  
10 the wells, 15 feet, and the depth of the two wells  
11 involved being approximately the same would suggest  
12 that some interference may occur. . . . Due to the  
13 marginal characteristics of the protestants well,  
14 complete and total protection for the existing  
15 facility, may be in doubt, although the previous  
16 water right granted under certificate #4117, will  
17 be honored. (Respondents' Exhibit R-1).

18 The wells described above are actually placed about 30 feet apart.

19 V.

20 From the Department's experience and knowledge of the subject  
21 withdrawal site and surrounding vicinity, it has determined that  
22 water was available for appropriation.

23 VI.

24 Appellant's well is about 17 feet deep and has a static water  
25 level of about 12 feet below her pump house floor. The permittee's  
26 well is about 15 feet deep and has a static water level at the same  
27 elevation as the appellant's well, but located ten feet below his  
28 pump house floor. On at least one occasion, both wells ran dry.

29 The wells are interconnected by a piping arrangement that allows  
30 the user to switch from one well to another.

31 VII.

32 It is reasonable and feasible to remove water from wells at

33 FINDINGS OF FACT,  
34 CONCLUSIONS OF LAW AND ORDER

1 depths of at least 50 feet in the area of the disputed permit.

2 VIII.

3 Any Conclusion of Law which should be deemed a Finding of  
4 Fact is hereby adopted as such.

5 From these Findings, the Pollution Control Hearings Board  
6 makes these

7 CONCLUSIONS OF LAW

8 I.

9 The Board has jurisdiction over the persons and over the  
10 subject matter of this proceeding.

11 II.

12 Appellant's attack of the Department's order is twofold:

- 13 1. The permittee has no right to the real property  
14 upon which the permit was authorized and over  
15 which appellant claims ownership and,  
16 2. The Report of Examination demonstrates the adverse  
17 effects upon appellant's well as a result of the  
18 close proximity and approximate equal depth of the  
19 two water sources.

18 III.

19 For purposes of this review, the Board concludes that ownership  
20 of the land is not determinative as to whether a permit should be  
21 authorized under RCW 90.03.290.<sup>1</sup>

22 IV.

23 RCW 90.03.290 requires the Department to make four determinations  
24 prior to the issuance of a water use permit: (1) what water, if any, '  
25

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26 1. This statute applies to ground water withdrawals. RCW 90.44.060.

1 is available; (2) to what beneficial uses the water is to be applied;  
2 (3) will the appropriation impair existing rights; and (4) will  
3 the appropriation detrimentally affect the public welfare.  
4 Stemple v. Department of Water Resources, 82 Wn.2d 109, 115 (1973).  
5 Appellant challenges only the third requirement above.

6 V.

7 Water is available for appropriation in the subject area.

8 VI.

9 Appellant's well is affected by the close proximity of the  
10 applicant's well. However, appellant failed to show that her  
11 rights would be impaired. To do so, appellant must show that she  
12 cannot get, to the limit of her certificated water right, a safe  
13 sustaining yield from a ground water body at a reasonable or feasible  
14 pumping lift.

15 VII.

16 We hold that appellant has not proved an impairment of her  
17 rights as would cause reversal of the Department's action. However,  
18 we do not hold nor lend support to the proposition that the mere  
19 issuance of the subject permit would thereby give the recipient  
20 thereof any right to enter another's property or to construct or  
21 leave structures thereon.

22 VIII.

23 Any Finding of Fact which should be deemed a Conclusion  
24 of Law is hereby adopted as such.

25 From these Conclusions, the Pollution Control Hearings Board  
26 makes and enters this

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER



ORDER

The Department's order issuing a permit under Application No. G3-21592 is hereby affirmed.

DATED this 30th day of September, 1975.

POLLUTION CONTROL HEARINGS BOARD

  
CHRIS SMITH, Chairman

  
WALT WOODWARD, Member